

Application No. 10/668,537
Docket No. 14374.106
Reply to Office Action mailed February 4, 2005

REMARKS

These Remarks are presented in response to the Office Action. Paragraphs [0033], [0034], and [0055] of the specification are amended. New claims 27-36 are added. Claims 1-36 are now pending in this application as a result of the aforementioned added claims.

Reconsideration of this application is respectfully requested in view of the following remarks. For the convenience and reference of the Examiner, the remarks of the Applicant are presented in the order in which the corresponding issues were raised in the Office Action.

Applicant notes that the amendments and remarks presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such amendments and remarks, or a lack of remarks, should not be construed as an acquiescence, on the part of the Applicant, as to the purported teachings or prior art status of the cited references, nor as to the characterization of the cited references advanced by the Examiner. Accordingly, Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

1. Use of Trademarks in the Specification

The Examiner notes the use of two trademarks in the present application, "HPC/H02" and "HPC/H05" and reminds Applicant that trademarks should be capitalized wherever they appear in the Application and that the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. In addition, the Examiner asserts that "the generic terminology of the material known by the trade mark[s] stated above was not provided in the specification."

In response to the Examiner's assertion that the generic terminology of "HPC/H02" was not provided in the specification, Applicant disagrees and respectfully refers the Examiner to paragraph [0054] which reads in part, "One high emissivity coating having characteristics and properties suitable for implementing the functionality disclosed herein is the passivating thermal barrier coating known by the trade name 'HPC/H02,' or simply 'H02,'" (emphasis added). Applicant thus submits that the materials associated with the HPC/H02 mark have clearly been

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disclosed in a generic fashion through the use of terminology such as "high emissivity coating" and "passivating thermal barrier coating."

Similarly, in response to the Examiner's assertion that the generic terminology of "HPC/H05" was not provided in the specification, Applicant respectfully disagrees and refers the Examiner to herein amended paragraph [0055] which reads in part, "Additionally, 'HPC/H05,' or simply 'H05,' sold under the trademark HiPerCoat® and produced by HPC, is one example of a low emissivity coating that is well suited for use in applications" (emphasis added).

Applicant thus submits that the materials associated with the HPC/H05 mark have clearly been disclosed in a generic fashion through the use of terminology such as "a low emissivity coating."

In light of the foregoing remarks and the amendments to the specification herein, Applicant respectfully submits that the objection has been overcome and should be withdrawn.

2. Alleged Lack of Antecedent Basis in the Specification

The Examiner objects to the specification under 37 CFR 1.75(d)(1) and MPEP § 608.01(o) for failing to provide proper antecedent basis for the subject matter recited in claims 7, 8 and 23. Specifically, the Examiner asserts that there is no antecedent basis in the specification for the emissive coating in these claims having an emissivity of about 0.6 or higher or 0.2 or lower.

In this regard, the M.P.E.P. § 608.01(l) states, "In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on *the original claims if their content justifies it.*" (emphasis added). In this case, original claims 7, 8 and 23 as filed recited an emissive coating having an emissivity of about 0.6 or higher or 0.2 or lower. Consistent with the foregoing, Applicant has herein amended paragraphs [0033] and [0034] of the specification to recite an emissive coating having an emissivity of about 0.6 or higher, or 0.2 or lower.

In light of the amendments to the specification herein, Applicant respectfully submits that the objection should be withdrawn. Applicant further submits that, consistent with M.P.E.P. §

Application No. 10/668,537

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